

1 George C. Lazar  
2 Nev. Bar No. 6030  
3 525 "B" Street, Suite 1500  
4 San Diego, California 92101  
5 Tel: 877.272.3734  
6 Fax: 877.227.0150  
7 Email: glazar@foxjohns.com

Electronically Filed 12/26/11

5 Attorney for United Central Bank  
a Texas state bank

7 | Counsel Designated for Service of  
Papers Per LR 10-1(b)

8      Larry C. Johns  
9      LAW OFFICE OF LARRY C. JOHNS  
9      3017 W. Charleston Blvd., Suite 30  
9      Las Vegas Nevada 89102

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

## NORTHERN DIVISION

14 In Re: ) CASE NO. 3:11-bk-53706-btb  
              ) Chapter 11

16 DILLON GROUP, LLC  
dba Holiday Inn Express  
2902 Michelle Dr.  
Sherman, TX 75092  
17

**Debtor**

) CASE NO. 3:11-bk-53706-btb  
)  
Chapter 11  
)  
)  
OPPOSITION OF UNITED CENTRAL  
BANK TO DEBTOR'S APPLICATIONS  
)  
)  
(1) TO EMPLOY THE BECKHAM  
GROUP (Doc 20)  
)  
(2) TO EMPLOY PATRICK GLENN  
(Doc 21)  
)  
(3) TO EMPLOY ANDY FUXA  
(Doc 22)  
)  
(4) TO EMPLOY ADJUSTER LUIS  
ESTEVES (Doc 23)

Date: January 3, 2012  
Time: 2:00 p.m.

1 INTRODUCTION<sup>1</sup>

2 The debtor has filed a number of applications for employment of professionals. Because the  
3 proposed cash collateral budget does not indicate payment of any professional fees from cash  
4 collateral, United Central Bank (“UCB”), the debtor’s principal secured creditor (see Opposition of  
5 United Central Bank to Debtor’s Application for Interim and Final Orders for Use of Cash Collateral  
6 filed concurrently herewith), trusts that no payment of professional fees will be from cash collateral  
7 (if there is, in fact, cash collateral).

8 In spite of this limitation, UCB has significant concerns about the applications made on  
9 behalf of all applications, other than debtor’s proposed counsel. As set forth below, the applications  
10 for the right to employ all professionals, other than debtor’s proposed counsel, should be denied  
11 based upon the record before the Court.

12

13 A. The Application of The Beckham Group.

14 The debtor proposes to retain The Beckham Group to pursue a possible bad faith claim  
15 against Security National Insurance.

16 In support of the application, the debtor attaches a fee agreement previously executed. That  
17 agreement note (p. 2, line 58) notes that The Beckham Group previously was retained by Dr. Soni,  
18 who is apparently another member of the debtor. The application does not disclose the fact that The  
19 Beckham Group was involved in litigation involving disputes between the members of the debtor.  
20 (See Request for Judicial Notice filed concurrently herewith, Exhibit A.)

21 At a minimum, before considering the application of The Beckham Group, the applicant  
22 should provide an explanation as to the nature of the previous dispute and why its representation is  
23 not possibly adverse to the debtor. In addition, the applicant should provide an explanation of who  
24 it takes direction from and that there are no possible conflicts. The submitted declaration of The  
25 Beckham Group, signed by Mr. Portela, does not appear to provide all the information required by

---

26

27 <sup>1</sup> By the filing of this opposition, United Central Bank does not waive its previously-  
28 asserted contention that venue is not proper before this Court and that the proceeding must be dismissed or transferred. See Doc 8.

1      Bankruptcy Rule 2014(a).

2

3      B.     The Application of Mr. Glen

4      Bankruptcy Rule 2014(a) provides that a professional to be employed must submit a verified  
5 statement setting forth the connections with the debtor or any party in interest. The application to  
6 employ does not contain such a verified statement.

7      In addition, the Court has nothing substantive before it to ascertain the qualifications of the  
8 proposed professional. Nor does it have before it the terms and conditions on which the proposed  
9 professional is to render services. Only the proposed monetary payment is disclosed.

10     At a minimum, the proposed professional must satisfy Rule 2014(a) and provide the Court  
11 with evidence of his qualifications to serve and the terms on which he proposes to render services  
12 to the estate.

13

14     C.     The Application of Mr. Fuxa

15     Bankruptcy Rule 2014(a) provides that a professional to be employed must submit a verified  
16 statement setting forth the connections with the debtor or any party in interest. The application to  
17 employ does not contain such a verified statement.

18     In addition, the Court has nothing substantive before it to ascertain the qualifications of the  
19 proposed professional. Nor does it have before it the terms and conditions on which the proposed  
20 professional is to render services. Only the proposed monetary payment is disclosed.

21     In fact, the proposed payment raises serious issues. The services to be performed are an  
22 appraisal of the debtor's personal property, together with any declarations and necessary testimony.  
23 A flat fee of \$15,000 is proposed. There is nothing to suggest why the Court can find this significant  
24 fee to be reasonable.

25     At a minimum, the proposed professional must satisfy Rule 2014(a) and provide the Court  
26 with evidence of his qualifications to serve and the terms on which he proposes to render services  
27 to the estate. In addition, there must be something to justify the proposed fee.

28

1       D.     The Application of Mr. Esteves

2              Bankruptcy Rule 2014(a) provides that a professional to be employed must submit a verified  
3 statement setting forth the connections with the debtor or any party in interest. The application to  
4 employ does not contain such a verified statement.

5              In addition, the Court has nothing substantive before it to ascertain the qualifications of the  
6 proposed professional. Nor does it have before it the terms and conditions on which the proposed  
7 professional is to render services. Only the proposed monetary payment is disclosed.

8              Further, The proposed professional was employed pre-petition to do adjustment and  
9 participated in discussions with United Central Bank regarding the insurance proceeds paid by a  
10 joint check (as discussed in the papers filed with regard to the cash collateral motion). As noted in  
11 other papers filed in this action, UCB is concerned that insurance proceeds may have been diverted.  
12 It is entitled to know that this proposed professional was not involved in any actions contrary to the  
13 security interest of UCB in the insurance proceeds.

14             At a minimum, the proposed professional must satisfy Rule 2014(a) and provide the Court  
15 with evidence of his qualifications to serve and the terms on which he proposes to render services  
16 to the estate. In addition, the proposed professional should be required to provide evidence to the  
17 Court that he was not involved in any activities which adversely affected UCB's security interests.

18

19 DATED: December 26, 2011

/s/ George C. Lazar

George C. Lazar, Attorney for United Central Bank  
NV Bar No. 6030  
525 B Street, Suite 1500  
San Diego, California 92101  
Tel: 877-272-3734  
Fax: 877-227-0150

20  
21  
22  
23  
24  
25  
26  
27  
28

1 CERTIFICATE OF SERVICE

2 On December 26, 2011, a true and correct copy of the attached document was served as  
3 follows:

4 By the Court's ECF System (Local Rule 5005(c)):

5 A.J. KUNG on behalf of Debtor DHILLON GROUP, LLC  
ajkung@ajkunglaw.com, bbrown@ajkunglaw.com; paralegal7@ajkunglaw.com;  
6 paralegal4@ajkunglaw.com; paralegal5@ajkunglaw.com; paralegal3@ajkunglaw.com;  
fileclerk@ajkunglaw.com; paralegal1@ajkunglaw.com

7 U.S. TRUSTEE - RN - 11 USTPRegion17.RE.ECF@usdoj.gov  
8 (A courtesy copy was directly email to Bill Cossit at: Bill.Cossitt@usdoj.gov

9 By U.S. Mail:

10 A copy of the attached document was placed in addressed envelope(s) and the envelope(s)  
containing the document were placed into the U.S. Postal Service mail on December 26, 2011 at  
11 San Diego, California; copies were mailed to:

12 None

13 I declare under penalty of perjury under the laws of the United States that the foregoing is  
14 true and correct.

17 DATED: December 26, 2011

18 \_\_\_\_\_ /s/ George C. Lazar

19 George C. Lazar